



**Department
of Health**

Emergency Regulations on Provider Meeting Space in Transitional Adult Homes

**An Overview Presented by the Office of Community Transitions and
the Division of Adult Care Facility/Assisted Living Surveillance**

February 2020

Introduction

Issuance of Emergency Regulations

- On January 29, 2020, the Department of Health (“Department”) issued emergency regulations for the purpose of improving compliance by Transitional Adult Home (“TAH”) operators with 18 NYCRR §487.13(h), which requires TAH operators to make space available, without charge, for residents to meet privately with specific providers.
- The emergency regulations amended several parts of 18 NYCRR §487.13 to establish criteria for suitable meeting space and require submission of a space plan to the Department upon request.
- Dear Administrator Letter #20-07, explaining the amendments, was issued on February 13, 2020.

Previous Meeting Space Requirements

- Under the version of 18 NYCRR §487.13(h) in effect prior to the issuance of the emergency regulations, TAH operators are:
 - Required to cooperate with providers seeking to meet with residents to discuss community transition;
 - Required to provide, without charge, space for residents to meet privately with such individuals or entities; and
 - Prohibited from attempting to influence or otherwise discourage individual residents from meeting with such providers.

Purpose of the Emergency Regulations

- Many service providers have reported to the Department that they have visited certain TAHs for the purpose of assisting residents considering or pursuing community transition and were unable to meet with residents in a space that allowed for private conversations.
- In several instances, providers have reported that residents have been discouraged from meeting with them due to the inability to meet privately.
- To improve compliance with 18 NYCRR §487.13(h), the Department issued the emergency regulations.

Changes Made by the Emergency Regulations

Emergency Regulations

The emergency regulations made three changes to 18 NYCRR §487.13:

- Added a new 18 NYCRR §487.13(i) to establish criteria for meeting space for resident meetings with providers.
- Added a new 18 NYCRR §487.13(j) to require TAH operators to submit a plan to the Department, upon the request and subject to the approval of the Department.
- Updated the definitions set forth in 18 NYCRR §487.13(b), which identify the service providers who may meet with residents to discuss community services, and the references to those providers in 18 NYCRR §487.13(h).

Provider Meeting Space Requirements

- The emergency regulations added a new 18 NYCRR §487.13(i) to establish criteria for provider meeting space.
- Any space identified for such purposes must:
 - Be a minimum of 160 square feet;
 - Be above grade level, be adequately lighted and ventilated, and meet the temperature requirements of 18 NYCRR §487.11(m);
 - Have a door that closes to ensure that conversations are private;
 - Be separate from an occupied or reserved resident room or space used primarily for storage; and
 - Not be under surveillance by adult home staff.

Provider Meeting Space Plans

- The emergency regulations added a 18 NYCRR §487.13(j) to provide that upon the request of the Department, TAH operators must submit a plan explaining how the meeting space requirements will be met.
- The plan must be submitted in a form and format prescribed by the Department within 30 calendar days of the Department's request.
- Once approved by the Department, the operator shall implement the plan.
- TAH operators are expected to comply with new 18 NYCRR §487.13(i), even if the Department does not request a plan.

Provider Definitions

The emergency regulations amended 18 NYCRR §487.13(b)(5) to update the definitions of the providers who meet with residents to discuss community services by:

- Clarifying that “housing contactors,” which are housing providers that have contracted with the Office of Mental Health (“OMH”) to provide residents with information regarding housing alternatives and community services, also assess residents to determine their housing and service needs and preferences; and
- Defining “Peer Bridger agencies” to mean OMH contractors that make Peer Bridgers available to provide mentoring and support to residents considering community transition.

Provider References

- The emergency regulations amended 18 NYCRR §487.13(h) to update the references to the providers who meet with residents to discuss community services and with whom TAH operators must cooperate.
- As amended, the section lists these providers as:
 - Community transition coordinators;
 - Housing contractors;
 - Peer Bridger agencies;
 - Care managers;
 - Health Homes; and
 - Managed long-term care plans.

Other Requirements

Meetings with Other Providers

- It should be noted that all adult homes – including TAHs – must “provide space for residents to meet privately with staff of the facility, visitors or other service providers” pursuant to 18 NYCRR §487.11(l)(12).
- In addition to meeting space requirements under 18 NYCRR §487.13(i), TAHs must also make adequate meeting space available for private resident meetings with other providers.

Meetings in Other Areas

- Under 18 NYCRR §485.14, operators are prohibited from restricting or prohibiting access by individuals representing community organizations or service agencies who provide, free of charge, a service to residents and shall not interfere with confidential visits with residents and persons assured access under that section.
- Such visits may occur in a resident's room, in common areas, or in other private space as set forth in 18 NYCRR §485.14(e).
- The provision of space meeting the criteria of new 18 NYCRR §487.13(i) must not be used as a basis for limiting the ability of providers to meet free of charge with residents in common areas, resident rooms, or other available facility spaces.

Existing Space Plans

- For those TAHs impacted by the Settlement in *United States v. State of New York* and *O'Toole, et al. v. Cuomo, et al.*, in the United District Court, Eastern District of New York, which have space plans approved by the Department's Office of Community Transitions, such space plans will be revisited in conjunction with the review of plans submitted under the new regulation.
- It is expected that such space plans will be updated to reflect the provider meeting space plans approved under the emergency regulation, and will also continue to identify other common areas used for resident meetings with providers as well as resident rooms.

Provider Meeting Space Plans

Provider Meeting Space Plans

- The provider space plan submitted by a TAH must:
 - Include the location of the space with enough detail to easily identify the space, including:
 - the room number, if any; and
 - the floor on which such space is located, which may not be in the basement;
 - Include the square footage of the proposed room, which must be no less than 160 square feet.

Provider Meeting Space Plans (continued)

- The provider space plan submitted by a TAH must also confirm that the space:
 - Is adequately lighted and ventilated and meets the temperature requirements of 18 NYCRR §487.11(m);
 - Has a door that closes to ensure conversations held within the space are private and that outside disruptions are minimized;
 - Is not an occupied or reserved resident room;
 - Is not space used primarily for storage; and
 - Is not under surveillance by adult home staff.

Submission and Approval of Plans

- A provider meeting space plan must be submitted within 30 calendar days of the date on which the Department submits a request for such plan.
- A provider meeting space plan must contain the information set forth on Slides # 17 and 18, and may be completed using the template provided to TAHs.
- The provider meeting space plan must include the name and signature of the administrator, the date upon which the administrator signed the plan, and a statement from the administrator stating that the information is true and accurate.
- Provider meeting space plans must be submitted to the Department at transitionalah@health.ny.gov.

Contacts

Contacts

Office of Community Transitions

(518) 485-8781

commtran@health.ny.gov

Division of Adult Care Facility/Assisted Living Surveillance

Central Office: (518) 408-1133

transitionalah@health.ny.gov